

March 20, 2019

To: Mayor and Members of City Council
From: Patrick A. Duhaney, City Manager 
Subject: **Council Referral Report – Police Department Overtime Audit**

REFERENCE DOCUMENT # 201801860

On May 14, 2018, the Budget and Finance Committee referred the following item for report:

MOTION, submitted by Councilmembers Landsman, Mann and Seelbach, WE MOVE that the Administration provide a report on the current CPD overtime audit and steps that the Department and Administration are taking to modernize CPD's overtime processes and reduce overtime spending.

The following report addresses recent changes to CPD Procedure 12.825, Compensatory Time and Paid Overtime to eliminate unnecessary overtime spending and to enhance the accountability of all CPD personnel; the steps CPD is taking to modernize overtime processes via accounting technology; the measures taken to achieve increased transparency and oversight of overtime processes.

Attached to this report is the 2016 overtime audit conducted by the City of Cincinnati Citizen Complaint and Internal Audit Department (IA), an interdepartmental memo authored by CPD Planning Section detailing the actions taken in response to the audit, the most recent bi-annual overtime audit (2018 pp 1-13), the Management Letter portion of the State of Ohio Audit, the standard operating procedure for conducting the bi-annual audits, and a current version of CPD Procedure 12.825, Compensatory Time and Paid Overtime.

2016 Internal Audit and Changes to Procedure 12.825, Compensatory Time and Paid Overtime

In March, 2016 IA conducted an extensive audit of CPD overtime practices at the request of the newly appointed police chief, Colonel Eliot K. Isaac. As a result of the audit, IA made recommendations on how CPD could improve its overtime processes. Through extensive research and collaboration with numerous City departments, CPD made the following changes to Procedure 12.825, Compensatory Time and Paid Overtime:

- Definition of Excessive Overtime - Accrual of overtime that exceeds the time necessary to complete an imminent and required task or duty directly related to an employee's specific assignment within the Department, or as directed by a supervisor.
- Contingency overtime may only be used if it has been pre-approved by the Police Chief, appropriate Bureau Commander, or their authorized designee(s).

- The purpose of overtime is to ensure essential Department operations continue to function at all times and to meet the goals of the Department.
- Examples of acceptable and unacceptable overtime practices added to procedure.
- In cases of increment overtime, a supervisor one rank higher can preapprove overtime. Supervisors working out of rank can preapprove overtime with the authority of the rank at which they are acting. Lieutenants acting as Night Chief can pre-approve overtime with the authority of a captain when no other captains are on duty. Preapproving supervisors are responsible for assessing whether overtime is necessary and reasonable in accordance with City and Departmental Policies and Procedures.
- Any supervisor, sergeant or above, can verify overtime slips for any rank.
- Only a captain or above can approve overtime slips.
- Officers are not permitted to take off their regularly scheduled duty hours to work Police Visibility Overtime (PVO) unless authorized by the district/section commander.
- If increment overtime is preapproved and authorization is obtained by MDC or the radio, officers can write the name of the authorizing supervisor in the "Overtime pre-approved by" box on the Form 68P-RO. If authorization is given in person but the form is unable to be signed at that time, the authorizing supervisor must sign the Form 68P-RO in the "Overtime pre-approved by" block prior to submission.
- Failure to have an overtime form pre-approved and/or verified will result in the form being incomplete and will not be approved by the reviewing district/section commander.
- A section on PVO was added to establish uniformity in selection and accounting of PVO funds.

The above listed procedural changes are expected to increase command-level oversight of overtime expense. Additionally, these changes enhance the accountability of officers and front-line supervisors to ensure overtime expenditure is used only when necessary.

Modernization of CPD Overtime Process Through Technology

CPD is in the process of implementing KRONOS, a scheduling and timekeeping program. KRONOS will modernize CPD's processes and provide increased accountability and auditing functions. The KRONOS project is still in the development phase. After extensive testing, CPD will incrementally roll-out use of KRONOS to ensure a smooth transition and ensure accountability measures are operating effectively.

Increased Transparency and Oversight

The KRONOS software will afford CPD the ability to conduct more thorough auditing of overtime expenditure. The reporting processes available within the system can be adjusted to track overtime in several different ways and assist in better identifying discrepancies in overtime usage. Through the enhanced auditing processes, CPD will increase the transparency of overtime expense and have the ability to reveal patterns of behavior of personnel and/or unexpected trends in overtime usage.

CPD Inspections Section has reconvened bi-annual overtime audits. The most recent audit was conducted for year 2018 pay-periods 1-13. The audit process, as detailed in the CPD Inspections Section SOP #1-110, included a review of overtime usage by a random selection of officers from all districts/sections, the TOP FIVE earners for each rank, and all specialized District units/squads (e.g. Violent Crimes Squad, Neighborhood Liaison Unit, and Investigative Unit).

The 2018 first half bi-annual audit identified several potential discrepancies in overtime usage. The potential discrepancies were investigated thoroughly by CPD Inspections Section and the affected bureau/district/section commanders. Recommendations were made to Chief Eliot K. Isaac regarding confirmed violations of policy and/or procedure. Disciplinary action has ranged from verbal counselling for minor offenses to the potential for more severe discipline through follow-up investigation being conducted by the Internal Investigation Section.

State Audit Review

The State of Ohio Auditor's Office conducted an audit of the City of Cincinnati's financial statements for fiscal year 2017. The Auditor's Office made several recommendations pertaining to CPD's overtime process. Below are the recommendations made by the Auditor's Office followed by CPD's response:

Overtime expense on the same day as vacation/comp time is taken:

...establish policies to provide guidance on approval and documentation of the reason overtime is incurred on the same day that vacation or comp time leave is also taken.

The use of vacation and/or comp time in order to work city-paid overtime during the time period the officer is using the vacation and/or comp time is expressly forbidden in a revision Procedure 12.825, Compensatory Time and Paid Overtime which took effect on February 28, 2019. Policy (in part):

Officers are not permitted to take off their regularly scheduled duty hours to work Police Visibility Overtime (PVO) unless authorized by the district/section commander.

A frequent example of an instance where an officer would be paid overtime the same day vacation or comp time is used is when an officer working a regularly scheduled work day of 0600-1600 hours and PVO from 1700-2100 hours. The officer is permitted to use comp time at any point during their normal work day and still receive an overtime payment for the PVO hours worked.

Cap on compensatory time accrual:

...establish policies to establish limits on the amount of comp time that individuals can accumulate and be paid upon separation at their current wage at retirement.

The labor agreement between CPD and Fraternal Order of Police Lodge #69 (FOP) along with the Fair Labor Standards Act (FLSA) dictate the guidelines for the amount of comp time a Department member may accumulate. FLSA non-exempt employees (Police officers and Specialists) are capped after accumulating 480 FLSA compensatory hours. This does not include the 120 hour annual holiday allowance. When the 480 hour cap is reached, all additional overtime, including compensatory time, is compensated by cash payment. The 480 hour cap is revolving. It does not end except when employment is terminated.

Vacation time maximum accrual is capped according to the current CPD/FOP labor agreement. The current maximum accrual of vacation time is as follows for employees hired after 7/1/1997:

Length of Service:	Maximum Accrued Hours:
Less than 4 years	178
4 – 9 years	230
9-14 years	262
14-19 years	308
Over 19 years	394

Discrepancies on internal audit reports:

...due care be used when performing and reporting the semi-annual overtime audit.

This recommendation was made due to the discrepancies between the draft CPD 2017 overtime audit and the figures calculated by the state audit. These discrepancies were caused by three known differences in the way the figures were processed.

First, the draft audit included pay periods #1 through #26 of 2017. The state audit included pay periods #2 (2017) through #1 (2018) in order to accurately reflect the 2017 calendar year earnings.

Secondly, the draft audit did not use the actual rate of pay that was in effect at the time the officers earned the overtime. This is necessary to reflect the earnings due to salary increases and step-ups which were effective throughout the year.

Finally, in order to determine the monetary value of earned compensatory time, the draft audit computed the compensatory time balances by time-and-a-half. This inaccurately inflated the monetary value of the compensatory time balances because the earned compensatory time had already been computed by time-and-a-half prior to the balances being converted into a monetary value.

Disproportionate amount of overtime earned by certain officers:

...reassess the current process for assigning overtime so certain individuals are not burdened with a disproportionate amount of overtime, and other individuals have an opportunity to work overtime if they are willing.

The nature of certain CPD assignments require the individuals in those assignments to be subjected to working more overtime. While cross-training officers and/or supervisory personnel could possibly reduce a small percentage of overtime for specific individuals, the amount of actual overtime expense would not be reduced. In most cases, CPD has eliminated most overtime situations through this method.

Example: A uniformed patrol officer working third shift, trained in the processing of fingerprint evidence, is able to process a stolen vehicle eliminated the need to recall an investigator to process fingerprint evidence. The investigator can follow-up with the initial investigation during normal working hours. This cross-training has reduced the amount of overtime required for this investigation.

Example: A shooting victim succumbs to their injuries and the CPD Homicide Unit is recalled to investigate the shooting. The members of the Homicide Unit have special training and experience to investigate homicide offenses. Cross-training of officers/supervisors is neither applicable nor reasonable due to cost and the varying nature of Department needs.

The allocation of PVO hours is outlined in Procedure 12.825, Compensatory Time and Paid Overtime. PVO hours are selected by hours of work, productivity of the officer, and qualifications required of the PVO (e.g., mountain bike certification, laser certification, etc.). Additionally, PVO hours are voluntary and not worked by those employees who do not wish to sign up to work them.

Outside employment details paid in the form of reimbursable overtime on the employee's city check are voluntary hours that each individual employee requests to work. CPD has rules and restriction on the amount an employee can work in a single day. These reimbursable overtime hours are available to all members of the Department and assigned by the number of hours previously worked.

Proper completion of overtime forms:

...recommend all required forms be completely filled out, properly pre-approved and verified, signed and retained, and consistent content detailed on each form.

The Auditor's Office reviewed 4,020 overtime forms. Of those forms, 97 (2.41%) were found to be missing the required information or had not been properly approved and verified for 22 of the 25 officers in the sample. 93 of the 97 forms with missing information and/or approvals were for overtime earned for a court appearance. The missing information on these forms included in and out times for court appearances. The Form 68P-CT, Court Appearance Overtime Report was recently revised, removing any type of pre-approval, as the subpoena for the officer to appear in court acts as such. Additionally, the F68P-CT is currently being revised to remove the "Officers

Time in Court” section of the form. This section is outdated due the requirement of using a time stamp at the Court Control office.

Of the 4,020 overtime forms reviewed, only four forms with missing information and/or approvals were located for the normal course of police business. CPD believes this to be an acceptable amount of compliance with Department Policies and Procedures; however, each instance of non-compliance is investigated and any required corrective action is taken.

Review of the 2018 bi-annual audit:

...recommend [CPD] require full-time officers to work 40 hours each week of an 80 hour biweekly pay period.

This instance was a situation in which an officer incorrectly completed a voluntary off-day deviation. CPD is currently investigating the circumstances surrounding this occurrence.

...recommend [CPD] implement the recommendations in the December 10, 2018 semi-annual audit of overtime.

CPD has amended policy and procedure to comply with the recommendations of the 2018 bi-annual audit conducted on December 10, 2018. Any and all discrepancies discovered in the audit have been investigated.

Summary

CPD is taking an active approach to minimizing overtime whenever possible. Commanders are being held accountable for discrepancies in overtime use for personnel under their command. The modernization of overtime processes through use of the KRONOS system will mitigate the potential for human error in timekeeping and allow enhanced auditing of overtime use. The increase in transparency and accountability of overtime use should greatly reduce the opportunity of overtime abuse.

cc: Colonel Eliot K. Isaac, Police Chief *Eliot K. Isaac*